

Internal Revenue Service

Department of the Treasury

Washington, DC 20224

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Dear [REDACTED]:

In your letter dated April 18, 2001, you ask for clarification of Rev. Rul. 70-604, 1970-2 C.B. 9. In particular, you question the meaning of the phrase "have the excess applied against the following year's assessments."

Rev. Rul. 70-604 concerns the issue of whether a condominium management corporation is taxable on excess assessments that are applied against the following year's assessments. The revenue ruling states that the sole authorized activity of a condominium management association is the assessment of its stockholder-owners for the purposes of managing, operating, maintaining, and replacing the common elements of the condominium property. The stockholder-owners hold a meeting each year to decide whether to return any excess assessments to themselves or to have the excess applied against the following year's assessments. The ruling concludes that the corporation is not taxable on the excess assessments because the excess has been returned, in effect, to the stockholder-owners.

Assuming a \$3,000 excess assessment for year 1 and a \$60,000 assessment for year 2, you ask whether the phrase "have the excess applied against the following year's assessments" means that the payment due from the stockholder-owners in year 2 would be \$57,000 or whether the phrase means that the total amount available to the condominium association for expenses in year 2 would be \$63,000.

In the example that you posit, the phrase means that the payment due from the stockholder-owners would be \$57,000. The revenue ruling was not intended to permit a condominium management association to build a reserve.

I hope that this letter is helpful. If you have any questions about this letter, please call Victoria Driscoll at (202) 622-4920.

Sincerely,
Associate Chief Counsel
(Income Tax & Accounting)

By:

Robert A. Berkovsky
Chief, Branch 4